AO 106 (Rev. 04/10) Application for a Search Warrant

UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

In the Matter of the Search of
(Briefly describe the property to be searched or identify the person by name and address)

Samsung SM-G530H (G530HGSMH)
LG Cell Phone (508YEA410268)
SIM Card (8952020915)

Case No. 2:17 mj 574

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

See Attachment A

located in the Southern District of Ohio, there is now concealed *(identify the person or describe the property to be seized)*:

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☑ evidence of a crime;
- ☑ contraband, fruits of crime, or other items illegally possessed;
- ☑ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	*Offense Description*
Title 21, United States Code Sections 841 (a) (1)	Distribution and possession with the intent to distribute controlled substances

The application is based on these facts:

See Attached Affidavit incorporated by reference herein

☑ Continued on the attached sheet.

☐ Delayed notice of ____ days (give exact ending date if more than 30 days: ________) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

[signature]
Applicant's signature

Curtis Brabender, Special Agent HSI
Printed name and title

Sworn to before me and signed in my presence.

Date: Oct 4, 2017

[signature]
Judge's signature

City and state: Columbus, Ohio

Kimberly Jolson U.S. Magistrate Judge
Printed name and title

MJH 10/2/2017

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

IN THE MATTER OF THE SEARCH OF VARIOUS CELLPHONES AND SIM CARDS, CURRENTLY LOCATED AT THE COLUMBUS POLICE DEPARTMENT'S PROPERTY ROOM

AFFIDAVIT IN SUPPORT OF AN APPLICATION UNDER RULE 41 FOR A WARRANT TO SEARCH AND SEIZE

I, Curtis Brabender, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a search warrant authorizing the examination of property—an electronic device—which is currently in law enforcement possession, and the extraction from that property of electronically stored information described in Attachment B.

1. I am employed as a Special Agent (SA) with U. S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI) and have been since December of 2010. In June of 2011, I completed a twenty-two week training program held at the Federal Law Enforcement Training Center in Glynco, Georgia. I am currently assigned to the HSI Columbus, OH office since June of 2017. Prior to this assignment I was assigned to our Sells, Arizona office from June 2011 to June 2017.

Prior to becoming a Special Agent your Affiant served as a Uniformed Officer with the United States Secret Service beginning in 2007-2010.

2. I have participated in narcotics, bulk cash smuggling, alien smuggling, firearms, child exploitation and hostage investigations that include: controlling informants, defendant and witness interviews, conducting surveillance, and the preparation and service of search warrants, as well as the service of arrest warrants. I am familiar with narcotics traffickers' methods of operation including the importation, distribution, and transportation of illegal drugs, the collection of money, and money laundering. I am also familiar with various counter-surveillance methods utilized by narcotics traffickers.

3. Your Affiant is familiar with the operation of illegal drug trafficking organizations in central Ohio.

4. I am participating in an investigation concerning an organized group of individuals, including Javier Alonso BRUCIAGA Pacheco and Carlos Alberto ACOSTA Ruiz, who are suspected of conspiring to possess with intent to distribute a controlled substance, namely cocaine, in violation of 21 U.S.C. § 846.

5. The information set forth in this affidavit is based upon my knowledge, training, experience, and participation in investigations involving the smuggling, possession, distribution, and storage of narcotics and narcotics proceeds. This information is also based on the knowledge, training, experience, and investigations conducted by fellow law enforcement officers, who have reported to me either directly or

indirectly. I believe this information to be true and reliable. I know it is a violation of 21 U.S.C. § 846 for any person to conspire to possess with the intent to distribute a controlled substance.

6. I have led numerous seizure warrants for various controlled substances, resulting in the seizure of controlled substances, packaging materials, paraphernalia involved in the distribution of controlled substances, large amounts of U.S. currency, cellular telephones, other assets and proceeds derived as a result of illicit activity, drug ledgers, drug customer lists, bank records, receipts, and other documents relating to the importation, transportation, ordering, purchasing, and distribution of controlled substances.

7. Based on my experience and participation with other HSI agents in conducting criminal investigations of violations of Title 21 (Controlled Substance Statutes) and Title 19 (Customs Statutes) of the United States Code, I know that narcotics trafficking organizations have developed a number of methods to insulate their illegal activities from law enforcement detection. These methods are common to major narcotics trafficking organizations to varying degrees of sophistication.

8. Through my training and experience I know drug trafficking organizations commonly use electronic devices, cellular telephones, and radio telephones in attempts to maintain secure communications between network members and customers. They use these devices during the commission of their criminal activity and the events preceding and following such activity for the following reasons:

a) Use cellular telephones to arrange, coordinate, and monitor smuggling activities including communicating with other smugglers, arrangers, and other transporters/drivers to coordinate narcotics loads. They also use cellular telephones to communicate with these same individuals during counter surveillance activities, and to warn co-conspirators of the presence of law enforcement or other obstacles to their smuggling plans.

b) Use cellular telephones to contact financial institutions where they launder their proceeds or receive monies for payment for their role in the scheme, as well as to contact individuals who sell/rent real estate, vehicles, or other facilities the smuggler uses in the course of their illegal activities.

c) Use all the communication technologies available within the particular cellular telephone, including voice messaging, texting, audio communications, direct dial, push-to-talk, email, internet access, communication applications, encrypted communications, photo and video images, and contact lists containing information about their criminal associates to accomplish their illicit activities.

d) Use multiple cellular telephones and often change cellular telephones to avoid detection by law enforcement.

9. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit

is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

IDENTIFICATION OF THE DEVICES TO BE EXAMINED

10. The property to be searched includes:

a) A Samsung SM-G530H cell phone bearing serial number: (G530HGSMH) found in the Volkswagen Jetta occupied by Carlos ACOSTA Ruiz and Javier Alonso BRUCIAGA Pacheco (hereafter referred to as: **Phone 1**). This device is currently located at the Columbus Police Department's Property Room.

b) A LG cell phone bearing serial number: (508YEA410268) found in the Volkswagen Jetta occupied by Carlos ACOSTA Ruiz and Javier Alonso BRUCIAGA Pacheco (hereafter referred to as: **Phone 2**). This device is currently located at the Columbus Police Department's Property Room.

c) A subscriber identity module (SIM) card bearing serial number: (8952020915) found in the wallet of Carlos ACOSTA Ruiz (hereafter referred to as: **SIM 1**). This device is currently located at the Columbus Police Department's Property Room.

11. These phones and sim card are hereinafter collectively referred to as "the Devices." The applied-for warrant would authorize the forensic examination of the Devices for the purpose of identifying electronically stored data particularly described in Attachment B.

PROBABLE CAUSE

12. I am the case agent of this investigation. The information contained in this affidavit is based upon my personal participation in this investigation, that of other agents and detectives assisting in this investigation, and my review of records, documents, and other information relating to this investigation. As a result of my personal participation in this investigation, review of reports, oral and written, made to me by other law enforcement agencies and others, I am familiar with the circumstances of the events and circumstances described in this Affidavit. On the basis of the investigation, I state the facts contained in this Affidavit as follows:

13. I submit that there is probable cause to believe that the devices requested to be searched may contain evidence identifying: (1) cellular telephone numbers used by drug-trafficking associates; (2) telephone calls conducted with drug-trafficking co-conspirators (to include time, date, and duration of calls); (3) photographs of and/or with drug-trafficking co-conspirators, illegal controlled substances, and/or currency; (4) text and/or voicemail message communications (including time and date) with drug-trafficking associates; (5) electronic mail and social media internet sites accessed by the users of the devices; and (6) usernames and/or passwords utilized by the users of the devices to access electronic mail and social media internet sites.

14. Based on my training and experience, as well as the training and experience of other law enforcement officers participating in this investigation, I know that drug trafficking organizations utilize cellular telephones (such as the devices) to communicate

when conducting their illegal activity, utilizing voice, text, and electronic mail (if accessible) functions of the cellular telephone to do so. These devices are utilized in furtherance of the crime by coordinating the transport and distribution of controlled substances, the collection and movement of currency, as well as communicating with members of the drug trafficking organization about the specific operations of that organization.

15. Further, based on my training and experience, as well as the training and experience of other law enforcement officers participating in this investigation, I know that individual members of DTO's often carry and utilize more than one cell phone per person at a time. It is common practice for these individuals to use different phones to communicate with different members of the drug organization. This helps insulate individuals from being linked to the greater conspiracy if one member is caught by law enforcement. Additionally when communicating with drug trafficking organizations based in Mexico, it is common to see phones or sim cards that are solely used to communicate with the individuals in Mexico, and phones or sim cards solely used to communicate with individuals in the United States.

16. On September 26, 2017 at approximately 8:00am, special agents (SA) and task force officers assigned to the Central Ohio High Intensity Drug Trafficking Area (HIDTA) were conducting routine checks when agents came across a 2007 black Volkswagen Jetta bearing Mexican license plate 795SAV9. Database checks uncovered that this vehicle had crossed from the Republic of Mexico, a country know to law

enforcement to be a source-country for narcotics, into the United States four times in the past month, including through the El Paso port of entry on September 22, 2017. The individuals identified in the black Volkswagen Jetta when crossing were Carlos Alberto ACOSTA Ruiz and Javier Alonso BRUCIAGA Pacheco. Additional law enforcement checks discovered BRUCIAGA had been identified as a suspect in an ongoing Homeland Security Investigations (HSI) narcotics investigation out of El Paso, TX. Investigation revealed that BRUCIAGA had previously been stopped at the El Paso port of entry with a vehicle found to contain hidden compartments in the seats of the vehicle and currency hidden inside of a bible under the driver's seat. Investigators also learned that BRUCIAGA has been identified by other narcotics smugglers as a member of a drug trafficking organization.

17. Agents began surveillance on the black Volkswagen Jetta and observed two males, later identified as Carlos Alberto ACOSTA Ruiz and Javier Alonso BRUCIAGA Pacheco, enter the vehicle and drive to a residence located at 626 Creekpark court Blacklick, OH. The subjects only stayed at the residence for a few minutes and were not seen carrying anything to the house nor returning from the house with anything. The subjects were seen on and off their phones throughout the duration of the surveillance. The subjects then proceeded to drive to the IHOP restaurant located on Stringtown Rd in Grove City, OH, and then to the motel 6 also located on Stringtown Rd, checking into room 138 together. Surveillance then observed both subjects loading bags into the vehicle and drive to the Washington Courthouse Outlet mall here within the Southern District of

Ohio, where they turned into a Loves truck stop and parked next to the compressed air dispenser.

18. The subjects were observed exiting the vehicle opening the trunk of the vehicle and removing the spare tire. Both subjects were manipulating the tire by pushing on it, rolling it, standing on the edge, and numerous time adding air from the compressor. BRUCIAGA Pacheco and ACOSTA Ruiz spent ten to fifteen minutes testing the tire and how it felt. It is known to the agents observing this behavior utilizing spare tires to conceal narcotics and currency is a common technique used by smugglers. Agents observed that the subjects did not check the pressure in any of the four other tires, clean the windows, put gas into the vehicle or other common practices typical of individuals' concerned with the performance of their vehicle before a long trip. This stop and their actions were solely based upon that spare tire. Agents also noted there were numerous opportunities for the subjects to stop at gas stations to add air to the spare tire. There is a gas station next door to the motel they were staying at. Since there is no warning light or indicator light that would have alerted the subjects about air pressure in the spare tire it was the belief of the agents observing this behavior the subjects specifically waited to manipulate the tire until they felt they were in a more remote area with minimal law enforcement and public presence.

19. Based on the totality of the circumstances, Task Force Officer Matt Cline initiated a traffic stop of ACOSTA Ruiz and BRUCIAGA Pacheco in marked unit. During the stop the subjects stated they had driven to Columbus to buy a computer,

however the person they were supposed to meet never arrived so they were now heading back to Mexico. Canine Officer Robbie McKee conducted an open air sniff with his narcotics detection canine and received a positive alert for the presence of narcotics. Agents conducted a search of the trunk and discovered the spare tire previously seen being handled by the two subjects inside the vehicle. Investigators could immediately feel packages inside the tire which could be heard moving around inside the tire. The tire was then opened and agents discovered two cellophane packages found to contain a white powdery substance. A preliminary field test was conducted for cocaine, but did not indicate positive. Due to the recent dangers associated with handling Fentanyl, the packages of suspected narcotics were packaged for laboratory testing rather than additional field tests.

20. During a post Miranda interview both BRUCIAGA Pacheco and ACOSTA Ruiz admitted to knowingly be in possession of a controlled substance which they believed to be cocaine. BRUCIAGA Pacheco stated they used the navigation in ACOSTA Ruiz's phone to drive to an individual known to them as "Big Turtle" This is where BRUCIAGA stated they picked up the cocaine from. BRUCIAGA Pacheco stated they were supposed to drop the narcotics off with a different set of individuals, however apparently no deal was able to be made between the customer and BRUCIAGA Pacheco's bosses in Mexico so they were informed to start heading back to Mexico with the narcotics. BRUCIAGA Pacheco stated they spent an extra night in Columbus after

they had secured the narcotics awaiting orders from Mexico. BRUCIAGA Pacheco stated he has never met his boss "Chuy" in person but was to be paid $1500.

21. The Devices that are the subjects of this affidavit are currently in storage at the Columbus Police Department's Property Room. In my training and experience, I know that these devices have been stored in a manner in which their contents are, to the extent material to this investigation, in substantially the same state as they were when the Devices first came into possession of HSI.

TECHNICAL TERMS

22. Based on my training and experience, I use the following technical terms to convey the following meanings:

a. Wireless telephone: A wireless telephone (or mobile telephone, or cellular telephone) is a handheld wireless device used for voice and data communication through radio signals. These telephones send signals through networks of transmitter/receivers, enabling communication with other wireless telephones or traditional "land line" telephones. A wireless telephone usually contains a "call log," which records the telephone number, date, and time of calls made to and from the phone. In addition to enabling voice communications, wireless telephones offer a broad range of capabilities. These capabilities include: storing names and phone numbers in electronic "address books;" sending, receiving, and storing text messages and e-mail; taking, sending, receiving, and storing still photographs and moving video; storing and playing back audio files; storing dates, appointments, and other information on personal calendars; and accessing and downloading information from the Internet. Wireless telephones may also include global positioning system (GPS) technology for determining the location of the device.

b. Digital camera: A digital camera is a camera that records pictures as digital picture files, rather than by using photographic film. Digital cameras use a variety of fixed and removable storage media to store their recorded images. Images can usually be retrieved by connecting the camera to a computer or by connecting the removable storage medium to a separate reader. Removable storage media include various types of flash memory cards or miniature hard drives. Most digital cameras also include a screen for viewing the stored images. This storage media can contain any digital data, including data unrelated to photographs or videos.

c. GPS: A GPS navigation device uses the Global Positioning System to display its current location. It often records the locations where it has been. Some GPS navigation devices can give a user driving or walking directions to another location. These devices can contain records of the addresses or locations involved in such navigation. The GPS consists of 24 NAVSTAR satellites orbiting the Earth. Each satellite contains an extremely accurate clock. Each satellite repeatedly transmits by radio a mathematical representation of the current time, combined with a special sequence of numbers. These signals are sent by radio, using specifications that are publicly available. A GPS antenna on Earth can receive those signals. When a GPS antenna receives signals from at least four satellites, a computer connected to that antenna can mathematically calculate the antenna's latitude, longitude, and sometimes altitude with a high level of precision.

23. Based on my training, experience, and research, I know that these devices have capabilities that allow them to serve as a wireless telephone, digital camera, and GPS navigation device. In my training and experience, examining data stored on devices of this type can uncover, among other things, evidence that reveals or suggests who possessed or used the device.

ELECTRONIC STORAGE AND FORENSIC ANALYSIS

24. Based on my knowledge, training, and experience, I know that electronic devices can store information for long periods of time. Similarly, things that have been viewed via the Internet are typically stored for some period of time on the device. This information can sometimes be recovered with forensics tools.

25. *Forensic evidence.* As further described in Attachment B, this application seeks permission to locate not only electronically stored information that might serve as

direct evidence of the crimes described on the warrant, but also forensic evidence that establishes how the Device was used, the purpose of its use, who used it, and when. There is probable cause to believe that this forensic electronic evidence might be on the Device because:

a. Data on the storage medium can provide evidence of a file that was once on the storage medium but has since been deleted or edited, or of a deleted portion of a file (such as a paragraph that has been deleted from a word processing file).

b. Forensic evidence on a device can also indicate who has used or controlled the device. This "user attribution" evidence is analogous to the search for "indicia of occupancy" while executing a search warrant at a residence.

c. A person with appropriate familiarity with how an electronic device works may, after examining this forensic evidence in its proper context, be able to draw conclusions about how electronic devices were used, the purpose of their use, who used them, and when.

d. The process of identifying the exact electronically stored information on a storage medium that are necessary to draw an accurate conclusion is a dynamic process. Electronic evidence is not always data that can be merely reviewed by a review team and passed along to investigators. Whether data stored on a device is evidence may depend on other information stored on the device and the application of knowledge about how a device behaves. Therefore, contextual information necessary to understand other evidence also falls within the scope of the warrant.

e. Further, in finding evidence of how a device was used, the purpose of its use, who used it, and when, sometimes it is necessary to establish that a particular thing is not present on a storage medium.

26. *Nature of examination.* Based on the foregoing, and consistent with Rule 41(e)(2)(B), the warrant I am applying for would permit the examination of the Devices consistent with the warrant. The examination may require authorities to employ techniques, including but not limited to computer-assisted scans of the entire medium, that might expose many parts of the device to human inspection in order to determine whether it is evidence described by the warrant.

27. *Manner of execution.* Because this warrant seeks only permission to examine a device already in law enforcement's possession, the execution of this warrant does not involve the physical intrusion onto a premises. Consequently, I submit there is reasonable cause for the Court to authorize execution of the warrant at any time in the day or night.

CONCLUSION

28. I submit that this affidavit supports probable cause for a search warrant authorizing the examination of the Devices described in Attachment A to seek the items described in Attachment B.

Respectfully submitted,

Curtis W. Brabender
Special Agent
Homeland Security Investigations

Subscribed and sworn to before me
on October 3, 2017:

UNITED STATES MAGISTRATE JUDGE